

AMENDED IN ASSEMBLY JANUARY 16, 1998

AMENDED IN ASSEMBLY JANUARY 5, 1998

AMENDED IN ASSEMBLY MARCH 31, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 228

Introduced by Assembly Member Migden

February 5, 1997

An act to amend Sections 42825, 42835, ~~42846~~, 42850, and 42855 of, *and to add Section 42846.5 to*, the Public Resources Code, relating to waste tires.

LEGISLATIVE COUNSEL'S DIGEST

AB 228, as amended, Migden. Solid waste: tires.

(1) Existing law, the California Integrated Waste Management Act of 1989, administered by the California Integrated Waste Management Board, establishes an integrated waste management program. Existing law imposes civil and criminal penalties for directing or transporting waste tires to waste tire facilities that have not been issued a permit and provides for specified penalties to be deposited in the California Tire Recycling Management Fund, to be available for specified purposes.

This bill would also impose criminal penalties for abandoning waste tires at an unauthorized facility, thereby imposing a state-mandated local program by creating a new crime.

The bill would require that the board or its contractors be permitted reasonable access to the property to perform cleanup, abatement, or remedial work, as prescribed, if an order setting liability has been obtained by the board, or by its designee, against the property owner, and ~~that activity is necessary due to the board finds there is~~ a significant threat to public health or the environment.

The bill would permit the board to designate, in writing, a ~~local agency~~ city, county, or city and county to exercise the enforcement authority granted to the board for violations concerning waste tire facilities. The bill would, if the action is brought by an attorney who represents the ~~local agency~~ city, county, or city and county, permit the penalties collected to be retained by the designated ~~local agency~~ city, county, or city and county. The bill would make related changes.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 42825 of the Public Resources
- 2 Code is amended to read:
- 3 42825. Any person who accepts waste tires at a major
- 4 waste tire facility which has not been issued a permit or
- 5 knowingly directs , transports, or abandons waste tires to
- 6 or at a major waste tire facility which has not been issued
- 7 a permit shall, upon conviction, be punished by a fine of
- 8 not less than one thousand dollars (\$1,000) nor more than
- 9 ten thousand dollars (\$10,000) for each day of violation,
- 10 by imprisonment in the county jail for not more than one
- 11 year, or by both that fine and imprisonment.
- 12 SEC. 2. Section 42835 of the Public Resources Code is
- 13 amended to read:



1 42835. Any person who accepts waste tires at a minor
2 waste tire facility which has not been issued a permit or
3 knowingly directs, transports, or abandons waste tires to
4 or at a minor waste tire facility which has not been issued
5 a permit shall, upon conviction, be punished by a fine of
6 not less than five hundred dollars (\$500) nor more than
7 five thousand dollars (\$5,000) for each day of violation, by
8 imprisonment in the county jail for not more than one
9 year, or by both that fine and imprisonment.

10 ~~SEC. 3. Section 42846 of the Public Resources Code is~~
11 ~~amended to read:~~

12 ~~42846. (a) The board may expend available moneys~~
13 ~~to perform any cleanup, abatement, or remedial work~~
14 ~~required under the circumstances set forth in Section~~
15 ~~42845 which in its judgment is required by the magnitude~~
16 ~~of endeavor or the need for prompt action to prevent~~
17 ~~substantial pollution, nuisance, or injury to the public~~
18 ~~health or safety. The action may be taken in default of, or~~
19 ~~in addition to, remedial work by the violator or other~~
20 ~~persons, and regardless of whether injunctive relief is~~
21 ~~being sought.~~

22 ~~(b) The board may perform the work itself, or by or in~~
23 ~~cooperation with any other governmental agency, and~~
24 ~~may use rented tools or equipment, either with operators~~
25 ~~furnished or unoperated. Notwithstanding any other~~
26 ~~provision of law, the board may enter into oral contracts~~
27 ~~for that work, and the contracts, whether written or oral,~~
28 ~~may include provisions for equipment rental and in~~
29 ~~addition the furnishing of labor and materials necessary~~
30 ~~to accomplish the work. The contracts are exempt from~~
31 ~~approval by the Department of General Services~~
32 ~~pursuant to Section 10295 of the Public Contract Code.~~

33 ~~(c)~~

34 *SEC. 3. Section 42846.5 is added to the Public*
35 *Resources Code, to read:*

36 42846.5. If the owner of property upon which waste
37 tires are unlawfully stored, stockpiled, or accumulated
38 refuses to allow the board or its contractors access to enter
39 onto the property and perform all necessary cleanup,
40 abatement, or remedial work as authorized under

1 ~~subdivision (a)~~ Section 42846, the board or its contractors
2 shall be permitted reasonable access to the property to
3 perform ~~that activity if an order setting liability has been~~
4 ~~obtained~~ *that activity if an order setting civil liability has*
5 *been issued or obtained pursuant to Article 6*
6 *(commencing with Section 42850)* by the board, or by its
7 designee pursuant to subdivision (c) of Section 42850,
8 against the property owner, and ~~that activity is necessary~~
9 ~~due to the board finds that there is~~ a significant threat to
10 public health or the environment.

11 SEC. 4. Section 42850 of the Public Resources Code is
12 amended to read:

13 42850. (a) Any person who intentionally or
14 negligently violates any provision of this chapter, or any
15 permit, rule, regulation, standard, or requirement issued
16 or adopted pursuant to this chapter, is liable for a civil
17 penalty not to exceed ten thousand dollars (\$10,000) for
18 each violation of a separate provision or, for continuing
19 violations, for each day that the violation continues.

20 (b) Liability under this section may be imposed in a
21 civil action or liability may be imposed administratively
22 pursuant to this article.

23 (c) ~~A local agency city, county, or city and county~~ may
24 be designated, in writing, by the board, to exercise the
25 enforcement authority granted to the board under this
26 chapter. ~~Any local agency city, county, or city and county~~
27 so designated shall follow the same procedures set forth
28 for the board under this article. This designation shall not
29 limit the authority of the board to take action it deems
30 necessary or proper to ensure the enforcement of this
31 chapter.

32 SEC. 5. Section 42855 of the Public Resources Code is
33 amended to read:

34 42855. All penalties collected under Section 42850
35 shall be deposited in the California Tire Recycling
36 Management Fund created pursuant to Section 42885 if
37 the attorney who brought the action represented the
38 board, or shall be retained by a ~~local agency city, county,~~
39 ~~or city and county~~ designated pursuant to subdivision (c)
40 of Section 42850, if the attorney who brought the action

1 represents the ~~local agency~~ city, county, or city and
2 county.

3 SEC. 6. No reimbursement is required by this act
4 pursuant to Section 6 of Article XIII B of the California
5 Constitution for certain costs that may be incurred by a
6 local agency or school district because in that regard this
7 act creates a new crime or infraction, eliminates a crime
8 or infraction, or changes the penalty for a crime or
9 infraction, within the meaning of Section 17556 of the
10 Government Code, or changes the definition of a crime
11 within the meaning of Section 6 of Article XIII B of the
12 California Constitution.

13 Notwithstanding Section 17580 of the Government
14 Code, unless otherwise specified, the provisions of this act
15 shall become operative on the same date that the act
16 takes effect pursuant to the California Constitution.